

PATENT
Attorney Docket No. 102.0010-01000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 26 2008

In re Application of:)
Gary K. Michelson)
Serial No.: 08/480,461)
Filed: June 7, 1995)
For: INSTRUMENTATION FOR THE)
SURGICAL CORRECTION OF HUMAN)
THORACIC AND LUMBAR SPINAL)
DISEASE FROM THE LATERAL)
ASPECT OF THE SPINE)

Confirmation No.: 9274

Group Art Unit: 3772

Examiner: Michael A. Brown

Mail Stop AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

TERMINAL DISCLAIMER

Petitioner ("assignee") Warsaw Orthopedic, Inc., duly organized under the laws of the State of Indiana, and having its principal place of business at 2500 Silveus Crossing, Warsaw, Indiana 46581 represents that it is the only assignee of the entire right, title and interest in and to above-identified Application No. 08/480,461 filed June 7, 1995 for INSTRUMENTATION FOR THE SURGICAL CORRECTION OF HUMAN THORACIC AND LUMBAR SPINAL DISEASE FROM THE LATERAL ASPECT OF THE SPINE in the name of Gary K. Michelson as indicated by assignment duly recorded in the United States Patent and Trademark Office at Reel 018323 and Frame 0173; is the only assignee of the entire right, title and interest in and to Application No. 08/482,162 filed June 7, 1995 (now U.S. Patent No. 6,270,498) for APPARATUS FOR INSERTING SPINAL IMPLANTS in the name of Gary Karlin Michelson as indicated by assignment duly recorded in the United States Patent and Trademark Office at Reel 018757 and Frame 0486; and is the only assignee of Application No. 08/484,927 filed June 7, 1995 (now U.S. Patent No. 6,096,038) for APPARATUS FOR INSERTING SPINAL IMPLANTS in the name of Gary Karlin Michelson as indicated by assignment duly

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Terminal Disclaimer 8-26-08

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recorded in the United States Patent and Trademark Office at Reel 018296 and Frame 0150. Assignee Warsaw Orthopedic, Inc. further represents through its representative that to the best of assignee's knowledge and belief, title to the above-identified application and the United States Patent Nos. 6,270,498 and 6,096,038 are in assignee, which is submitting this Terminal Disclaimer.

To obviate a double patenting rejection, Warsaw Orthopedic, Inc. hereby disclaims, under the provisions of 37 C.F.R. § 1.321, the terminal part of any patent granted on above-identified Application No. 08/480,461, which would extend beyond the expiration date of Patent Nos. 6,270,498 or 6,096,038; and hereby agrees that any patent so granted on the above-identified application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to United States Patent Nos. 6,270,498 and 6,096,038; this agreement to run with any patent granted on the above-identified application and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, Petitioner does not disclaim the terminal part of any patent granted on Application No. 08/480,461 that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of Patent Nos. 6,270,498 or 6,096,038; as presently shortened by any terminal disclaimer, in the event that Patent Nos. 6,270,498 or 6,096,038: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or in part, is terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term, as presently shortened by any terminal disclaimer.

In accordance with the fee schedule set forth in 37 C.F.R. § 1.20(d), the required fee of \$130.00 is to be charged to Deposit Account No. 50-3726.

If there are any additional fees due in connection with the filing of this reply, please charge the fees to our Deposit Account No. 50-3726. If a fee is required for an

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extension of time under 37 C.F.R. 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

The undersigned is authorized to act on behalf of assignee Warsaw Orthopedic, Inc.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: August 26, 2008

By: 

Amedeo E. Ferraro
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